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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

WESTLAKE SERVICES, LLC
d/b/a WESTLAKE FINANCIAL
SERVICES,

Plaintiff,

v.

CREDIT ACCEPTANCE
CORPORATION,

Defendant.

CASE No.: 2:15-cv-07490 SJO (MRWx)

**JOINT WITNESS LIST, SUMMARY
OF WITNESS TESTIMONY, AND
TIME ESTIMATES**

Hon. S. James Otero

Pretrial Conference: Nov. 20, 2017
Trial Date: Dec. 5, 2017

1 EKWAN E. RHOW (CA SBN 174604)
TIMOTHY B. YOO (CA SBN 254332)
2 RAY S. SEILIE (CA SBN 277747)
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8 WESTLAKE SERVICES, LLC d/b/a
WESTLAKE FINANCIAL SERVICES
9

JOINT WITNESS LIST

Pursuant to Federal Rule of Civil Procedure 26(a)(3)(A)(i), Local Rule 16-5, and Section 1.B.3 of the "Order re Jury/Court Trial for Civil Cases Assigned to Judge S. James Otero," Plaintiff Westlake Services, LLC d/b/a Westlake Financial Services ("Westlake") and Defendant Credit Acceptance Corporation ("CAC," and with Westlake, the "Parties") submit the following joint list of witnesses they will or may call at trial in this matter, excluding any witnesses to be called solely for impeachment purposes. Witnesses whom the parties may call are indicated by an asterisk. The Parties have used reasonable best efforts to estimate the length of time needed for each examination, which is subject to change. The parties reserve the right to supplement this list, including if any of the below-named witnesses becomes unavailable.

Witness Name and Party Calling the Witness	Summary of Testimony	Will Call/ May Call	Estimated Length in Hours or Minutes of Direct, Cross, Re-Direct, Re- Cross
Ian Anderson (Plaintiff witness) c/o Bird, Marella, Boxer, Wolpert, Nessim, Drooks, Lincenberg & Rhow, P.C.	Ian Anderson is Westlake's President and has been an employee of Westlake since 2005. Mr. Anderson will testify regarding Westlake's understanding of and efforts to compete in the alleged profit-sharing market. Mr. Anderson will also testify regarding indirect auto financing, the different products Westlake offers and has offered to dealers in connection with auto financing, and the competitive dynamics that exist within the used car auto financing industry.	Will Call	Direct = 1.5 hours Cross = 1 hour Re-direct = 15 minutes Re-Cross = 10 minutes

1	1875 Century			
2	Park East, 23rd			
3	Floor Los			
4	Angeles,			
5	California			
6	90067-2561			
7	(310) 201-2100			
8	Chris Urban	Chris Urban is the Senior Vice President of	Will	Direct = 1 hour
9	(Plaintiff	Risk Management at Westlake. Mr. Urban	Call	Cross = 45
10	witness)	will testify, from a risk management		minutes
11	c/o	perspective, regarding indirect auto		Re-Direct = 15
12	Bird, Marella,	financing, the different products Westlake		minutes
13	Boxer,	offers and has offered to dealers in		Re-Cross = 10
14	Wolpert,	connection with auto financing, and the		minutes
15	Nessim,	competitive dynamics that exist within the		
16	Drooks,	used car auto financing industry. Mr. Urban		
17	Lincenberg &	will also testify about Westlake's efforts to		
18	Rhow, P.C.	compete with CAC at the business level.		
19	1875 Century			
20	Park East, 23rd			
21	Floor Los			
22	Angeles,			
23	California			
24	90067-2561			
25	(310) 201-2100			
26	Mark Vazquez	Mark Vazquez is the Senior Vice President	Will	Direct = 30
27	(Plaintiff	of Sales and Marketing at Westlake. Mr.	Call	minutes
28	witness)	Vazquez will testify, from a sales		Cross = 45
	c/o	perspective, regarding the different products		minutes
	Bird, Marella,	Westlake offers and has offered to dealers in		Re-Direct = 15
	Boxer,	connection with auto financing, and the		minutes
		competitive dynamics that exist within the		Re-Cross = 10
		used car auto financing industry. Mr.		

1	Wolpert,	Vasquez will also testify about Westlake's		minutes
2	Nessim,	efforts to compete with CAC at the sales		
3	Drooks,	level.		
4	Lincenberg &			
5	Rhow, P.C.			
6	1875 Century			
7	Park East, 23rd			
8	Floor Los			
9	Angeles,			
10	California			
11	90067-2561			
12	(310) 201-2100			
13	Jeffrey Brock	Jeffrey Brock is the named inventor of U.S.	Will	Plaintiff Direct
14	(Plaintiff and	Patent No. 6,950,807 (the "'807 Patent").	Call	= 1 hour
15	Defendant	Mr. Brock will testify about the development		Defendant Cross
16	witness)	and pilot testing of CAC's Credit Approval		= 1.5 hours
17		Processing System ("CAPS"), an Internet-		Re-direct = 30
18	c/o	based loan origination system that is an		minutes
19	embodiment of some of the claims of the			Re-Cross = 15
20	'807 Patent. In particular, Mr. Brock will			minutes
21	testify about his role as the Functional Lead			
22	of the CAPS project in the development of			
23	CAPS in 2000, the experimental testing of			
24	CAPS during the pilot program from August			
25	through December 2000, the release of			
26	CAPS to non-pilot program dealers			
27	beginning in January 2001, and CAC's			
28	prosecution of the '807 Patent. Mr. Brock			
	will also testify regarding his understanding			
	of the '807 Patent and CAC's application			
	process for that patent.			
	Douglas Busk	Douglas Busk is CAC's Treasurer, a position	Will	Plaintiff Direct
	(Plaintiff and	he has held for the better part of two	Call	= 30 minutes
	Defendant	decades. He will testify regarding the		Defendant Cross
	witness)	structure and evolution of CAC's indirect		= 1 hour
	auto financing programs, including the			

1 2 3 4 5 6 7 8 9 10 11	c/o Skadden, Arps, Slate, Meagher & Flom LLP, 300 South Grand Avenue, Los Angeles, CA 90071; (213) 687-5000	compensation CAC pays to auto dealers to acquire retail installment sales contracts ("RISCs"), and the ways in which CAC shares profit and risk of nonpayment or default with dealers. Mr. Busk will also testify regarding competition in acquiring RISCs from dealers, how CAC competes to provide financing, industry data on which CAC relies, the lenders who compete with CAC, and the marketing and public statements regarding CAPS. Mr. Busk will also testify regarding the patent infringement lawsuits CAC filed against GO Financial and Westlake in March 2013.		Re-Direct = 15 minutes Re-Cross = 15 minutes
12 13 14 15 16 17 18 19 20 21 22	Charles Pearce (Plaintiff and Defendant witness) c/o Skadden, Arps, Slate, Meagher & Flom LLP, 300 South Grand Avenue, Los Angeles, CA 90071; (213) 687-5000	Charles Pearce is CAC's Chief Legal Officer. Mr. Pearce will provide non-privileged testimony regarding CAC's application for the '807 Patent and CAC's decision to sue Westlake in 2013 for infringing the '807 Patent.	Will Call	Plaintiff Direct = 30 minutes Defendant Cross = 30 Re-Direct = 15 minutes Re-Cross = 5 minutes
23 24 25 26 27 28	Donald House (Plaintiff witness) c/o RRC, Inc., 3000 Briarcrest	Dr. Donald House is Westlake's economic expert. Dr. House will testify regarding Westlake's market definition, CAC's purported market power, and Westlake's purported injuries.	Will Call	Direct = 2 hours Cross = 1.5 hours Re-Direct = 30 minutes Re-Cross = 20

1	Dr. Ste 600,			minutes
2	Bryan, TX			
3	77802			
4	Andrew Dick	Dr. Andrew Dick is an antitrust economist, former Acting Chief of the Competition Policy Section of the Antitrust Division of the U.S. Department of Justice, and CAC's expert. He will testify about his background and the expert opinions in his Rule 26(a)(2) reports, including that: (1) Westlake's alleged relevant market is not a properly defined antitrust market; (2) CAC does not have monopoly power within Westlake's alleged market; (3) no evidence exists that Westlake or competition generally has been harmed by CAC's alleged anticompetitive conduct; and (4) the damages estimate of Westlake's expert, Dr. Donald House, is unsupported and arbitrary because his damages model does not measure the purported injury from the alleged anticompetitive conduct nor isolate the purported effect of that conduct from lawful competition and unrelated market events.	Will Call	Direct = 2 hours
5	(Defendant witness)			Cross = 45 minutes
6				Re-Direct = 25 minutes
7	c/o			Re-Cross = 5 minutes
8	Charles River			
9	Associates,			
10	1201 F Street,			
11	N.W.,			
12	Washington,			
13	D.C. 20004;			
14	(202) 662-3898			
15				
16				
17				
18				
19				
20	Robert Stoll	Robert Stoll is a former patent examiner for the U.S. Patent and Trademark Office. Mr. Stoll will testify about the practices and expectations of the USPTO as applied to CAC's application for the '807 Patent.	Will Call	Direct = 1 hour
21	(Plaintiff witness)			Cross = 30 minutes
22				Re-Direct = 15 minutes
23	Drinker Biddle,			Re-Cross = 10 minutes
24	1500 K Street,			
25	N.W., Ste.			
26	1100,			
27	Washington,			
28	D.C., 20005-1209			

1 2 3 4 5 6 7 8 9 10 11	Marsha Courchane (Defendant witness) c/o Charles River Associates, 1201 F Street, N.W., Washington, D.C. 20004; (202) 662-3804	Dr. Marsha J. Courchane is CAC's expert on the auto financing industry. Dr. Courchane will testify about her background and the opinions expressed in her Rule 26(a)(2) report, including about: (1) the general structure of the automobile finance industry; (2) options available to automobile dealers to offer financing to end consumers, and, in particular, indirect financing; and (3) the distinctions Dr. House seeks to draw among the various financing options available to automobile dealers for car buyers, in analyzing whether profit sharing programs compete with other forms of auto financing.	May Call	Direct = 45 minutes Cross = 30 minutes Re-Direct = 15 minutes Re-Cross = 5 minutes
12 13 14 15 16 17 18 19 20 21 22 23 24	David Hricik* (Defendant witness) Mercer University School of Law 1021 Georgia Ave. Macon, GA 31207; (478) 301-4154	David Hricik, a Professor of Law at Mercer University School of Law, is CAC's patent expert. He will testify about his background and the opinions expressed in his Rule 26(a)(2) reports, including about the following: (1) the on-sale and public use bars under 35 U.S.C. § 102(b), including experimental use negation of those bars; and (2) the "but for" materiality standard articulated in <i>Therasense, Inc. v. Becton, Dickinson & Co.</i> , 649 F.3d 1276 (Fed. Cir. 2011) (en banc), and how that standard differs from the materiality standard in 37 C.F.R. § 1.56. Professor Hricik will also testify about the unreliability of Mr. Stoll's opinions and his methodological shortcomings.	May Call	Direct = 30 hour Cross = 1 hour Re-Direct = 10 minutes Re-Cross = 5 minutes
25 26 27 28	David Ball* (Plaintiff or Defendant witness either	David Ball is an automobile dealer who owns a dealership in California. Mr. Ball will testify about CAC's purported market power and Westlake's purported marketplace	May Call	Plaintiff Direct = 15 minutes Cross = 20 minutes

1 2 3 4 5 6 7 8 9 10	live or via deposition) c/o Ken Barish, Barish Tax Law, 1801 Century Park East, 16th Floor, Los Angeles, CA 90067	injury, if necessary to rehabilitate testimony from Westlake witnesses or impeach testimony from CAC witnesses.		Re-Direct = 5 minutes Re-Cross = 5 minutes
11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Jonathan Eyraud* (Plaintiff or Defendant witness either live or via deposition) c/o Bird, Marella, Boxer, Wolpert, Nessim, Drooks, Lincenberg & Rhow, P.C. 1875 Century Park East, 23rd Floor Los Angeles, California 90067-2561	Jonathan Eyraud is an Internal Sales Representative at Westlake. Mr. Eyraud will testify regarding the different products Westlake offers and has offered to dealers in connection with auto financing, and the methods by which Westlake works with auto dealers on a deal-by-deal basis to originate loans. Mr. Eyraud will also testify about Westlake's efforts to compete with CAC in the profit-sharing market, if necessary to rehabilitate and/or impeach testimony.	May Call	Defendant Direct = 30 minutes Cross = 10 minutes Defendant Re-Direct = 10 minutes Re-Cross = 5 minutes

1	(310) 201-2100			
2	Rufus Hankey*	Rufus Hankey was President of Nowcom	May	Defendant
3	(Plaintiff or	during the relevant period. Mr. Hankey will	Call	Direct = 45
4	Defendant	testify regarding the '807 Patent, Westlake's		minutes
5	witness either	awareness of its alleged injury, Nowcom's		Cross = 10
6	live or via	development of Dealer Center, Westlake's		minutes
7	deposition)	own patent applications, as well as the		Defendant Re-
8	c/o	different products Westlake and NowCom		Direct = 15
9	Bird, Marella,	offer and have offered to dealers in		minutes
10	Boxer,	connection with auto financing.		Re-Cross = 5
11	Wolpert,			minutes
12	Nessim,			
13	Drooks,			
14	Lincenberg &			
15	Rhow, P.C.			
16	1875 Century			
17	Park East, 23rd			
18	Floor Los			
19	Angeles,			
20	California			
21	90067-2561			
22	(310) 201-2100			
23	Perry	Perry Leventhal is the former Senior	May	Defendant
24	Leventhal*	Financial Risk Analyst at Westlake and is a	Call	Direct = 30
25	(Plaintiff or	current employee at Western Funding. Mr.		minutes
26	Defendant	Leventhal will testify regarding the different		Cross = 15
27	witness live or	products Westlake and Western Funding		minutes
28	via deposition)	offer and have offered to dealers in		Defendant Re-
		connection with auto financing, and in		Direct = 15
		particular Westlake's Profit Builder program.		minutes
	c/o	Mr. Leventhal will also testify about		Re-Cross = 5
	Bird, Marella,	Westlake's efforts to compete against CAC		minutes
	Boxer,	if necessary to rehabilitate testimony from		
	Wolpert,	Westlake witnesses or impeach testimony		
	Nessim,			

1	Drooks,	from CAC witnesses.		
2	Lincenberg &			
3	Rhow, P.C.			
4	1875 Century			
5	Park East, 23rd			
6	Floor Los			
7	Angeles,			
8	California			
9	90067-2561			
10	(310) 201-2100			
11	Daniel	Daniel Ulatowski is CAC's Chief Sales	May	Plaintiff Direct
12	Ulatowski*	Officer. He has been employed by CAC	Call	= 30 minutes
13	(Plaintiff or	since 1996 and has held various positions at		Cross = 20
14	Defendant	CAC predominantly in sales. He will testify		minutes
15	witness via	about CAC's sales practices and competition		Plaintiff Re-
16	deposition)	in the marketplace, if necessary, to		Direct = 15
17	c/o	rehabilitate and/or impeach testimony.		minutes
18	Skadden, Arps,			Re-Cross = 10
19	Slate, Meagher			minutes
20	& Flom LLP,			
21	300 South			
22	Grand Avenue,			
23	Los Angeles,			
24	CA 90071;			
25	(213) 687-5000			
26	Steve Jones*	Steve Jones is the President of CAC. Mr.	May	Direct = 30
27	(Defendant	Jones joined CAC in 1997, and was named	Call	minutes
28	witness)	Chief Administrative Officer in November		Cross = 30
	c/o	2003, Chief Analytics Officer in December		minutes
	Skadden, Arps,	2004, Chief Originations Officer in June		Re-Direct = 10
	Slate, Meagher	2006, and to his present position in April		minutes
	& Flom LLP,	2007. Mr. Jones also assumed the		Re-Cross = 5
	300 South	responsibilities of Chief Operating Officer in		minutes
		February 2008. Mr. Jones may testify if		

1	Grand Avenue,	necessary, regarding CAC's business, pro-		
2	Los Angeles,	competitive conduct , and competitive		
3	CA 90071;	advantages. Mr. Jones will also testify about		
4	(213) 687-5000	the marketplace, lenders who compete with		
5		CAC, and their relative successes and		
6	Keith	failures.		
7	McCluskey*	Keith McCluskey is the CEO and owner of	May	Direct = 10
8	(Plaintiff or	McCluskey Chevrolet, and the former	Call	minutes
9	Defendant	President and Chief Marketing Officer of		Cross = 20
10	witness via	Credit Acceptance. Mr. McCluskey will		minutes
11	video	testify regarding his experience in the used		
12	deposition)	car auto finance industry, as well as how the		
13	c/o	competitive dynamics within that industry		
14	Thompson	affect his dealerships. Mr. McCluskey will		
15	Hine LLP	also testify about CAC's purported market		
16	312 Walnut	power, if necessary, to rehabilitate testimony		
17	Street, 14th	from Westlake witnesses or impeach		
18	Floor	testimony from CAC witnesses.		
19	Cincinnati,			
20	Ohio 45202			
21	(513) 352-6700			
22	Art Smith*	Art Smith is CAC's Chief Analytics Officer.	May	Direct = 20
23	(Defendant	He has been employed by CAC since 1997	Call	minutes
24	witness)	and has held his current position since 2013.		Cross = 30
25	c/o	Mr. Smith may be called, if necessary, to		minutes
26	Skadden, Arps,	testify about aspects of CAC's business,		Re-Direct = 5
27	Slate, Meagher	including pricing and risk, and CAC's		minutes
28	& Flom LLP,	competitive advantages in an effort to		Re-Cross = 5
	300 South	rehabilitate the testimony from CAC's		minutes
	Grand Avenue,	witnesses or impeach testimony from		
	Los Angeles,	Westlake's witnesses.		
	CA 90071;			

(213) 687-5000			
<p>Jeffrey Canfield* (Plaintiff witness via video deposition) 5050 N. Sheridan Road, #805, Chicago, IL 60640</p>	<p>Jeffrey Canfield was CAC's outside counsel when it prepared and filed the '807 Patent application in 2000. Westlake may introduce recorded testimony from Mr. Canfield's deposition concerning CAC's '807 Patent application if necessary to rehabilitate testimony from Westlake witnesses or impeach testimony from CAC witnesses.</p>	<p>May Call</p>	<p>Direct = 5 minutes Cross = 5 minutes</p>
<p>Peter Zura* (Plaintiff witness via video deposition) c/o Loza & Loza LLP, 22 W. Washington St. #1500, Chicago, IL 60602</p>	<p>Following Jeffrey Canfield, Peter Zura was CAC's outside counsel who helped prosecute the '807 Patent application. Mr. Zura will testify about CAC's '807 Patent application, if necessary to rehabilitate testimony from Westlake witnesses or impeach testimony from CAC witnesses.</p>	<p>May Call</p>	<p>Direct = 5 minutes Cross = 5 minutes</p>

DATED: 10/30/17

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

By: /s/ Jason D. Russel
Jason D. Russell

Attorneys for Defendant

CREDIT ACCEPTANCE CORPORATION

1
2 DATED: 10/30/17

3 BIRD, MARELLA, BOXER, WOLPERT, NESSIM,
4 DROOKS, LINCENBERG & RHOW, P.C.

5 By: /s/ Timothy B. Yoo

6 Timothy B. Yoo
7 Attorneys for Plaintiff
8 WESTLAKE SERVICES, LLC d/b/a
9 WESTLAKE FINANCIAL SERVICES

10 **ATTESTATION**

11 I, Jason D. Russell, attest that the signatories listed above, and on whose behalf the filing
12 is submitted, concur in the filing's content and have authorized the filing.
13

14 /s/ Jason D. Russell

15 Jason D. Russell
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